



PATENT
Customer No.: 22,852
Attorney Docket No.: 05725.1339-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Nadia GARDEL et al.)
)
Application No.: 10/784,909) Group Art Unit: 1615
)
Filed: February 24, 2004) Examiner: K. George
)
For: WATER-IN-OIL EMULSION) Confirmation No. 6143
FOUNDATION COMPRISING A)
POLYOL)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In reply to the Office Action dated June 25, 2007, Applicants submit the following remarks. The period for response has been extended one month to August 25, 2007 by the accompanying petition and fee.

In the Office Action, the Examiner required restriction under 35 U.S.C. § 121 between the following five groups of claims:

Group I. Claims 80, 82, 84-149, and 167-186, drawn to compositions (fluid foundations) comprising a dimethicone copolyol of formula (I), and (claims 185 and 186) to a non-therapeutic process for making up skin;

Group II. Claims 80, 84-143, 150-153, 156-157, and 167-186, drawn to compositions (fluid foundations) comprising a dimethicone copolyol of formula (II), and (claims 185 and 186) to a non-therapeutic process for making up skin;

Group III. Claims 80, 84-143, 150, 154, 156, 157, and 167-186, drawn to compositions (fluid foundations) comprising a dimethicone copolyol of formula (III), and (claims 185 and 186) to a non-therapeutic process for making up skin;

Group IV. Claims 80, 84-143, 150, 155-157, and 167-186, drawn to compositions (fluid foundations) comprising a dimethicone copolyol of formula (IV), and (claims 185 and 186) to a non-therapeutic process for making up skin; and

Group V. Claims 81, 83, and 158-166, drawn to compositions (fluid foundations) comprising polymethyl methacrylate particles, and (claims 185 and 186) to a non-therapeutic process for making up skin.

Although Applicants disagree with the restriction requirement, to be responsive Applicants elect to prosecute Group I, i.e., claims 80, 82, 84-149, and 167-186. Applicants respectfully traverse the restriction requirement for at least the reasons set forth below.

The M.P.E.P. instructs Examiners that:

If the search and examination of an entire application can be made without serious burden, the Office must examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (emphasis added).

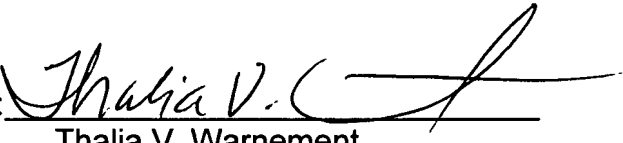
Applicants submit that the Examiner has failed to show that examination of the entire application would rise to the level of a "serious burden." To the contrary, Groups I through IV all recite at least one dimethicone copoyol, thus resulting in an overlapping search. Further, Group V recites compositions comprising polymethyl methacrylate particles which would be in the same field of search as Groups I through IV. A search for the subject matter recited in the claims of Group I should substantially, if not completely, overlap a search for the subject matter recited in Groups II, III, IV, and V. Accordingly, Applicants respectfully request that the Examiner withdraw the restriction requirement and examine Groups I through V together.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 2, 2007

By: 
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